

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
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U.S. DISTRICT COURT E.D.N.Y.

DEC 11 2006

P.M. _____
TIME A.M. _____

DECISION AND ORDER

2:03-cv-06076-ENV-ETB

GARY LA BARBERA, LAWRENCE KUDLA,
THOMAS GESAULDI, PAUL GATTUS, THEODORE
KING, CHESTER BROMAN, FRANK FINKEL, AND
JOSEPH FERRARA, AS TRUSTEES AND
FIDUCIARIES OF THE LOCAL 282 WELFARE TRUST
FUND, THE LOCAL 282 PENSION TRUST FUND,
THE LOCAL 282 ANNUITY TRUST FUND, THE
LOCAL 282 JOB TRAINING TRUST FUND, AND THE
LOCAL 282 VACATION AND SICK LEAVE TRUST
FUND,

Plaintiffs,

- against -

LES SUB-SURFACE PLUMBING, INC., AND
LES FISCHER CONTRACTING CORP.,

Defendants.

X

VITALIANO, D.J.

On March 17, 2006, District Judge Arthur D. Spatt entered a default judgment against the defendants, Les Sub-Surface Plumbing, Inc. and Les Fischer Contracting Corp., in the above-captioned matter and referred the remaining question of damages to Magistrate Judge E. Thomas Boyle. On October 19, 2006, Magistrate Boyle issued a Report and Recommendation recommending that damages be awarded to plaintiffs in the amount of 1) \$22,817.59 for unpaid contributions, 2) \$4,898.54 in interest, calculated at the rate of 6% per annum, on the unpaid contributions, 3) \$4,898.54 in liquidated damages, and 4) \$20,263.98 in attorneys' fees and costs. No objections to Magistrate Boyle's Report and Recommendation have been timely filed.

In reviewing a Report and Recommendation, this Court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where no timely objection has been made, the "court need only satisfy itself that there is no clear error on the face of the record" in order to accept such a Report and Recommendation. Urena v. New York, 160 F.Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985)).

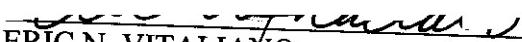
After careful review of all the evidence in the record below, the Court finds Magistrate Boyle's Report and Recommendation as to the appropriate amount of damages in this action to be correct, comprehensive, well-reasoned and free of any clear error. The Court, therefore, adopts the Report and Recommendation in its entirety as the opinion of the Court. Accordingly, for the reasons stated therein, the plaintiffs are awarded \$22,817.59 for unpaid contributions, \$4,898.54 for interest on the unpaid contributions, \$4,898.54 for liquidated damages, and \$20,263.98 for attorneys' fees and costs, for a total judgment in the sum of \$52,878.65.

The Clerk is directed to enter judgment in accordance with this Decision and Order.

SO ORDERED.

DATED: Brooklyn, New York
December 6, 2006

/s/ Hon. Eric N. Vitaliano


ERIC N. VITALIANO
United States District Judge